

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ABDELRAHMAN HASSAB EL NABI,

ORDER

Plaintiff,

21-cv-3768 (LAK) (JW)

-against-

CITY OF NEW YORK *et al.*,

Defendants.

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JENNIFER E. WILLIS, United States Magistrate Judge:

On January 5, 2023, this Court was referred the charging lien dispute between Plaintiff's current and former attorneys. Dkt. No. 47. On January 19, 2023, the attorneys submitted a joint letter outlining their positions on the charging lien. Dkt. No. 49. On January 31, 2023, the Court directed the attorneys to appear for a conference to hear arguments on the charging lien dispute. Dkt. No. 51.

On February 9, 2023, the Court held a conference and stated that it was the Court's "ruling that the first firm was not fired for cause." Dkt. No. 55 at 9. The Court then gave the attorneys until March 13, 2023, to submit a joint status update on the progress of negotiations in resolving the charging lien. Dkt. No. 52. On March 13, 2023, the attorneys wrote the Court detailing that they failed to resolve the dispute and proposing a briefing schedule on the "issue of previous counsel's charging lien." Dkt. No. 53. The Court endorsed the attorneys' briefing schedule. Dkt. No. 54.

On March 29, 2023, Plaintiff's current counsel, Tahanie Aboushi, filed a letter requesting "clarification of the court's statements made during the conference held

on February 9, 2023.” Dkt. No. 57. Ms. Aboushi contends that she “understood the February 9, 2023 conference to be a mediation/settlement conference...we also understood the court’s statements to not be binding as the court ordered a briefing schedule in the event counsel could not resolve the issue amongst ourselves.” Dkt. No. 57.

That same day, Plaintiff’s prior counsel, Gabriel Harvis, wrote the Court asserting that Ms. Aboushi’s “letter motion, styled as a motion for a conference and clarification, is nothing more than a belated effort to seek reconsideration of sound rulings issued almost two months ago...Ms. Aboushi attended the February 9, 2023 hearing and heard the Court’s rulings and its admonition that the counsel should attempt, in light of those rulings, to resolve the lien...because the unauthorized application is misleading, without color and untimely, it should be denied.” Dkt. No. 58.

Then, on April 17, 2023, pursuant to the previously authorized schedule, Mr. Harvis filed a Motion seeking to enforce the charging lien and proposing that he be “awarded 80% of the fee.” Dkt. No. 59.

According to the prior schedule, Ms. Aboushi’s Opposition to the Motion would be due May 19, 2023. Dkt. No. 54.

However, in light of the concerns raised, the previous briefing schedule is hereby CANCELED. Ms. Aboushi’s letter motion seeking a conference and clarification (Dkt. No. 57) is, for the time being, DENIED without prejudice.

The Court now sets the following new briefing schedule:

- Mr. Harvis shall have until **May 25, 2023** to submit a Motion Seeking to Enforce the Charging Lien.
- Ms. Aboushi shall have until **June 26, 2023** to file an Opposition to the Motion.
- Should Mr. Harvis wish to file a Reply, it shall be due **July 10, 2023**.

In their papers, the attorneys are invited to brief the following issues:

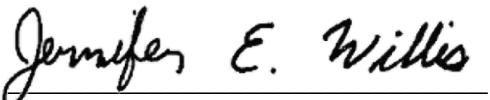
- Does Ms. Aboushi have a right to an evidentiary hearing on whether Mr. Harvis was terminated for cause?
- If Ms. Aboushi does have a right to an evidentiary hearing, was her objection “untimely”, as alleged by Mr. Harvis?
- Was Mr. Harvis terminated for cause?
- If Mr. Harvis was not terminated for cause, what portion of the fee, if any, should he be awarded?

The briefs are limited to ten pages, double-spaced, but the attorneys may additionally submit any relevant documents as exhibits. If any confidential documents are to be attached as exhibits, leave to file under seal should be sought at that time.

The Clerk of the Court is respectfully requested to close Dkt. Nos. 46, 57, and 59.

SO ORDERED.

DATED: New York, New York
May 9, 2023



JENNIFER E. WILLIS
United States Magistrate Judge